

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

60329

FILE: B-183174

DATE: DEC 24 1975

MATTER OF: Kenneth D. Thomas - Per Diem

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**DIGEST:** Employee who traveled during working hours on Friday to report for temporary duty the following Tuesday, the day after a Monday holiday, may not be paid per diem for the intervening 3-day weekend. While 5 U. S. C. § 6101(b)(2) requires that to the maximum extent practicable agencies schedule travel during regular duty hours, payment of 2 days or more additional per diem to facilitate such scheduling has been held unreasonable. Where 2 days per diem would be required and commencement of assignment cannot be otherwise scheduled, the employee may be required to travel on his own time.

This action is in response to a request for an advance decision by a certifying officer of the Department of the Interior whether the voucher of Mr. Kenneth D. Thomas in the amount of \$48 representing 3 days per diem may be certified for payment.

Mr. Thomas, with headquarters in Fresno, California, was given a temporary "Executive Development Mobility Assignment" in Washington, D. C., for the period from February 19, 1974, to April 12, 1974. The assignment was designed to give him management experience at headquarters level and to improve his ability in management techniques and operations at the regional level. As expressed in an undated memorandum, the employee's specific assignment was as follows:

"The first four weeks of the assignment is programmed to be in the Planning Division. The planning assignment is expected to relate input made at the Regional level to problems at the Washington level. This assignment will provide a look at the management style at this level in getting projects approved and into construction.

"The last four weeks is to be spent with a Congressional Staff. Congressman Johnson or Sisk would provide an excellent experience as an

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example. The purpose of this assignment is to gain a better insight into the legislative process and observe the interface between the executive branch, Congress and the public."

The Travel Authorization issued to Mr. Thomas included the statement that the employee was not required to perform travel on weekends or holidays. Because the first day of his temporary duty assignment, February 19, 1974, was the Tuesday following a Monday holiday, Mr. Thomas departed his permanent duty station in Fresno, California, and arrived in Washington, D.C., on February 15, 1974, the preceding Friday. He explains that this early departure was occasioned by his wish to avoid weekend and holiday travel and the need to make final arrangements for living accommodations for his 2-month stay in Washington, D.C.

That portion of Mr. Thomas' claim for per diem for the 3-day weekend from February 16 to 18, 1974, was disallowed by the administrative office based upon the certifying officer's determination that his early departure was a matter of personal convenience. He has been reimbursed per diem for three-fourths of a day for his travel on Friday, February 15, 1974, and for the entire period of his assignment beginning at 12:01 a.m. on Tuesday, February 19, 1974.

Mr. Thomas feels that he has been wrongly denied per diem for the 3 days in question and requests an opinion regarding his entitlement. He has stated his position as follows:

"I understand that the regulations state that an employee is not required to travel on a weekend and I feel a holiday falls in the same category as a weekend. The regulations are silent on payment of per diem for weekend travel. I feel that if per diem is not to be paid for weekends there would be no need for the regulation.

"Amendment No. 2 of subject travel authorization, item (1) states, 'Mr. Thomas does not have to perform travel on weekends or holidays.'

"I feel the wrong decision was made in deducting the per diem, 3 days at \$16.00 per day for a total of \$48.00.

It is wrong to specifically permit an employee to travel on a Friday and then once at the temporary duty station rule that no per diem will be paid for the weekend and holiday or until actual assignment begins on the following Tuesday. I, therefore, request a Comptroller General's decision regarding the payment for the 3 days' per diem in question."

We are not aware of any specific regulation providing that employees are not required to perform weekend travel. Mr. Thomas' reference in this regard is presumably to the following statutory language contained at 5 U. S. C. § 6101(b)(2):

"(2) To the maximum extent practicable, the head of an agency shall schedule the time to be spent in a travel status away from his official duty station within the regularly scheduled workweek of the employee."

We recognize that, insofar as permitted by work requirements, arrival or departure may be delayed to permit an employee to travel during his regular duty hours and that up to 2 days additional per diem may be paid for that purpose. 53 Comp. Gen. 882 (1974); B-160258, January 2, 1970; and B-168855, March 24, 1970. However, the payment of additional per diem costs for 2 days or more for the purpose of facilitating an employee's travel during regular duty hours is not considered reasonable. 46 Comp. Gen. 425 (1966), and B-165339, November 18, 1968. Where scheduling to permit travel during regular duty hours would result in payment of 2 days or more per diem, the employee may be required to travel on his own time insofar as the circumstances of his assignment do not meet one of the criteria for payment of overtime compensation for travel set forth at 5 U. S. C. § 5542(b)(2), 51 Comp. Gen. 727 (1972).

Since Mr. Thomas' travel during duty hours on Friday, February 15, 1974, in order to report for work on Tuesday, February 19, 1974, involves more than 2 days additional per diem costs over what would have been incurred if his travel had been performed on Monday, February 18, 1974, those per diem costs may not be paid.

Under the circumstances, however, the Department of the Interior's method of scheduling assignments warrants further

mention. The notation contained in the travel orders issued Mr. Thomas to the effect that he was not required to perform travel on weekends or holidays is misleading. For example, depending upon the length and scheduling of his particular travel, there are many circumstances where the above-discussed 2-day per diem rule may require an employee to travel over a weekend in order to place himself at a temporary duty site on a Monday morning. In those circumstances the agency is obliged, by virtue of the policy set forth in 5 U. S. C. § 6101(b)(2), above, to carefully consider the necessity for the employee's reporting on a Monday morning or, as in Mr. Thomas' case, on a Tuesday morning following a Monday holiday.

In Mr. Thomas' particular case, we question the necessity for the Department of the Interior's having scheduled his "Executive Development Mobility Assignment" to commence on the morning of Tuesday, February 19, 1974. The first 4 weeks of his assignment were with a division of the Department of the Interior in Washington, D. C., and thus, it would appear that the scheduled start of his assignment was a matter entirely within the control of that Department. To the extent that it was within its control the Department should more properly have scheduled the start of Mr. Thomas' assignment for Wednesday morning, permitting him to travel from Fresno to Washington on Tuesday.

When the scheduling of an employee's travel requires him to perform noncompensable travel outside his regularly scheduled workweek the provision of section 610.123 of title 5 of the Code of Federal Regulations should be complied with. That section provides:

"Insofar as practicable travel during nonduty hours shall not be required of an employee. When it is essential that this be required and the employee may not be paid overtime under § 550.112(e) of this chapter the official concerned shall record his reasons for ordering travel at those hours and shall, upon request, furnish a copy of his statement to the employee concerned."

R. F. KILLER

[Deputy]

Comptroller General  
of the United States